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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,948	04/13/2004	Leonard R. Filipkowski	056172.005	3592
25461	7590	06/27/2005	EXAMINER	
SMITH, GAMBRELL & RUSSELL, LLP 1230 PEACHTREE STREET, N.E. SUITE 3100, PROMENADE II ATLANTA, GA 30309-3592			TERESINSKI, JOHN	
			ART UNIT	PAPER NUMBER
			2858	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/822,948	<b>Applicant(s)</b> FILIPKOWSKI, LEONARD R.	
	<b>Examiner</b> John Teresinski	<b>Art Unit</b> 2858	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/6/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6, 8, 9 and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,894,512.

Regarding claims 1, 6 and 16, Girshovich et al. disclose a method and device for sensing moisture having a strip sensor which when dry has a dry electrical resistance and when wet has a wet electrical resistance (column 2 lines 22-34), conductor strips (108) extending along the length of the strip substrate and electrically separated from each other by the strip substrate (column 4 lines 37-44), and a microcontroller (122) connected to the conductor strips and programmed to detect a change in the resistance of the strip substrate between the conductor strips as a presence of moisture on the strip substrate (column 4 lines 58-64).

Regarding claims 2 and 17, Girshovich et al. disclose the strip substrate is an untreated polyester fabric (column 4 lines 39-41).

Regarding claims 3, 8 and 18, Girshovich et al. disclose the strip substrate with a resistance that varies with the amount of moisture absorbed (column 5 lines 35-44).

Regarding claims 4, 9 and 19, Girshovich et al. disclose a threshold resistance (column 8 lines 39-48).

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 10-15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girshovich et al..

Regarding claims 5, 10, and 20, Girshovich et al. disclose a dry resistance on the order of kOhms but fails to teach a dry resistance of 6 Mohms. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a 6 MOhm dry impedance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Gardner, 220 USPQ 777 (CAFC 1984).

Regarding claim 11, Girshovich et al. disclose a single moisture sensor but fails to teach a plurality of moisture sensors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide multiple sensors since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

Regarding claims 12-15 see claims 2-5 above respectively.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Girshovich et al. in view of U.S. Patent Publication No. 2001/0017053 to Rynhart et al..

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Regarding claim 7, Girshovich et al. does not disclose measuring moisture using a dry wall substrate. Rynhart et al. disclose a moisture meter with impedance measurements including the use of dry wall/gypsum as a substrate for impedance measurements (paragraph 53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a dry wall substrate as taught by Rynhart et al. into Girshovich et al. for the purpose of providing a sensor with increased utility.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Teresinski whose telephone number is (571) 272-2235. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JT  
JT

6/24/05

  
**ANJAN DEB**  
**PRIMARY EXAMINER**